

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOYCE WINLAND,

Plaintiffs,

vs.

HARBOR FREIGHT TOOLS USA, INC.,

Defendants.

Case No. 2:16-cv-00987-JCM-GWF

ORDER

This matter is before the Court on Plaintiff's Motion for Substitution of Parties and Leave to Amend the Complaint with a Wrongful Death Action (ECF No. 19), filed on November 4, 2016.

This case arises from Plaintiff's claims of negligence/premise liability and negligent hiring, supervision, and failure to warn against Defendant. *See Complaint* (ECF No. 1-1). On November 3, 2016, Plaintiff filed a Notice of Suggestion of Death (ECF No. 18), indicating Plaintiff passed away on May 31, 2016. On September 15, 2016, the Probate Court of the Eighth Judicial District Court, Clark County, Nevada entered an Order appointing Robert E. Winland as Special Administrator of the estate of Joyce Winland as well as the issuance of Special Letters of Administration to Robert E. Winland. *See Plaintiff's Motion* (ECF No. 19), pg. 12-14. Plaintiff seeks to substitute Robert E. Winland as Special Administrator of Plaintiff Joyce Winland's estate in the place of Plaintiff Joyce Winland and requests leave to amend her Complaint to include claims and relief for Wrongful Death.

Fed. R. Civ. P. Rule 25(a)(1) allows the court to order substitution of a party if a party dies and the claim is not extinguished. If a motion for substitution is not made within 90 days of service of a statement noting the death, the action by or against the decedent must be dismissed. Fed. R. Civ. P. 25(a)(1); *F.D.I.C. v. Red Hot Corner, LLC*, 2014 WL 5410712, at *1 (D. Nev. Oct. 22, 2014). Plaintiff filed a Notice of Suggestion of Death on November 3, 2016 and filed a Motion for

1 Substitution of Parties on November 4, 2016. The Court finds that Plaintiff has sufficiently
2 established good cause for the substitution and grants Plaintiff's Motion for Substitution of Parties.

3 Local Rule IC 2-2 states that "[f]or each type of relief requested or purpose of the document, a
4 separate document must be filed and a separate event must be selected for that document." LR IC 2-

5 2. Plaintiff did not set forth her requested relief for leave to amend her Complaint to include a
6 Wrongful Death claim in a separate document. Therefore, the Court denies Plaintiff's request for
7 leave to amend her Complaint to include a Wrongful Death claim without prejudice. Accordingly,

8 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Substitution of Parties and Leave to
9 Amend the Complaint with a Wrongful Death Action (ECF No. 19) is **granted, in part, and denied,**
10 **in part.** Plaintiff's Motion for Substitution of Parties is **granted.** Plaintiff's request for leave to
11 amend her Complaint to include claims and relief for Wrongful Death is **denied** without prejudice.

12 DATED this 9th day of November, 2016.

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15 GEORGE FOLEY, JR.
16 United States Magistrate Judge
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